

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTHONY SHRONE PERSON,

Petitioner,

v.

MELISSA ANDREWJESKI,

Respondent.

Case No. 3:23-cv-5434-BJR-TLF

ORDER

This matter is before the Court on petitioner's motion to stay. Dkt. 15. Respondent has filed a response that—while not waiving any defenses to the petition—agrees a stay is appropriate. Dkt. 30.

District courts may use a “stay-and-abeyance” procedure while a petitioner exhausts his claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275-77 (2005); *Calderon v. United States District Court (Taylor)*, 134 F.3d 981, 988 (9th Cir.1998).

Here, petitioner asserts that he has not fully exhausted his claims in state court because his personal restraint petition is currently pending review before the Washington State Supreme Court. Dkt. 15. Respondent agrees a stay is appropriate because petitioner still has available state court remedies. Dkt. 12.

After reviewing the relevant record, the Court concludes petitioner's motion should be granted. The Court ORDERS as follows:

- (1) Petitioner's motion to stay (Dkt. 15) is GRANTED. This case is stayed.
- (2) Because petitioner is incarcerated and proceeding pro se, respondent is directed to file a report every ninety (90) days informing the Court of the status of petitioner's state proceedings. The first status report is due on or before **October 20, 2023** and shall include the state court cause number.
- (3) If the state court dismisses or resolves petitioner's state court proceedings, petitioner is directed to inform the Court and file a motion to lift the stay within 30 days of the state court taking action.
- (4) Respondent shall file an answer to the petition (in accordance with Rule 5 of the Rules Governing Section 2254 Cases) 45 days after the Court enters an order lifting the stay.

Dated this 21st day of July, 2023.



Theresa L. Fricke
United States Magistrate Judge